

hearing loss on January 1, 1992 and realized it was causally related to his employment that day. Appellant retired from the employing establishment on May 3, 1993.

By letter dated December 5, 2012, OWCP advised appellant of the evidence needed to establish his claim. It also requested the employing establishment address appellant's workplace noise exposure.

In an October 24, 2012 statement, appellant noted from 1961 to 1965 he worked at the Air Force Fire Department in the crash crew and was exposed to noise from jets. From 1965 to 1968 he worked at Portland Air Force Base Fire Department in the crash crew and was exposed to noise from jets. From 1968 to 1970 appellant worked at Sandpoint Naval Air Station fire department in the crash crew and was exposed to aircraft noise. From 1970 to 1975 he worked in the Keyport Fire Department and inspected shops and was exposed to noise from trades working in machine shops. From 1975 to 1993 appellant worked in the fire department as a driver/operator and was exposed to noise from fire equipment, crane machines, shops, forge shops, trades working on ships, needle guns, grinders, diesel engines and alarms. At each job, no safety devices to protect against noise exposure was used or provided. Appellant's hobbies included shooting and he used double hearing protection.

The employing establishment submitted a notification of personnel action that appellant voluntarily retired on May 3, 1993. Also submitted was a federal job application dated September 17, 1965, and job descriptions for a firefighter and a firefighter driver/operator. The employing establishment submitted medical records, including its audiograms taken under a hearing conservation program from April 12, 1968 to August 24, 1992.² An October 3, 2012 audiogram from the Conner Hearing Aid Clinic was also provided.

In a November 5, 2012 report, Dr. Gerald G. Randolph, a Board-certified otolaryngologist, noted examining appellant on October 24, 2012 and having audiometric testing conducted on that date. Testing at the frequency levels of 500, 1,000, 2,000 and 3,000 (Hertz) Hz revealed the following: right ear 5, 5, 5 and 30 decibels; left ear 0, 0, 0 and 35 decibels. Appellant reported noticing progressive hearing loss for six years. He did not experience tinnitus. Appellant reported retiring from the employing establishment in 1993 and was unemployed since 2004. Dr. Randolph noted physical examination revealed external auditory canals and tympanic membranes were normal and air conduction was greater than bone conduction bilaterally. He advised that audiometric testing revealed a bilateral high frequency sensorineural hearing loss with speech reception thresholds of five decibels in both ears. Dr. Randolph diagnosed sensorineural hearing loss bilaterally. He stated that industrial audiograms were performed but he had not reviewed them. Dr. Randolph noted appellant's audiogram revealed hearing loss with an audiometric configuration entirely compatible with hearing loss due to past noise exposure. He opined that pursuant to the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*,³ (A.M.A., *Guides*), appellant had zero percent (no) hearing loss in the right and left ear with binaural

² The August 24, 1992 audiogram revealed, at the frequency levels of 500, 1,000, 2,000 and 3,000, the following thresholds: left ear 0, 0, 0 and 15 decibels; right ear 0, 0, 0 and 20 decibels.

³ A.M.A., *Guides* (5th ed. 1993).

hearing loss of zero. Dr. Randolph noted that appellant was a borderline candidate for bilateral hearing aids. He asked to review the industrial audiograms to see if the hearing loss would be attributed to his workplace exposure to noise.

In a December 12, 2012 letter, the employing establishment submitted a summary of appellant's occupational exposure to noise from May 21, 1979 to May 3, 1993, for a firefighter who worked in the background ship was exposed to 79 to 89 decibels continuously, background and nonindustrial noise from 60 to 70 decibels of noise continuously, background industrial noise from 70 to 95 decibels of noise continuously and tool use from 82 to 120 decibels of noise intermittently.

In a January 7, 2013 letter, OWCP referred appellant to Dr. Randolph for further evaluation. It provided Dr. Randolph with a statement of accepted facts, available exposure information and copies of all medical reports and audiograms and requested that he provide an addendum to his November 5, 2012 report. OWCP provided the employing establishment audiograms from the hearing conservation program dated April 12, 1968 to August 24, 1992.⁴

In a January 21, 2013 report, Dr. Randolph noted that the earliest audiogram present in appellant's record was April 12, 1968 which revealed totally normal hearing in both ears. He noted that appellant left federal employment in 1993 and the audiogram performed on August 24, 1992 revealed that he had essentially normal hearing in both ears with no treatment being indicated based on the audiogram. Since 1992 to the audiogram performed on October 24, 2012, appellant's hearing had degenerated somewhat since the audiogram obtained in 1968 due to causes other than his federal industrial employment. Dr. Randolph noted that the audiogram performed on October 24, 2012 revealed zero percent ratable hearing loss in both ears utilizing the A.M.A., *Guides*. He advised that appellant was a potential candidate for hearing aids; however, he was not a candidate for hearing aid evaluation and fitting at the time he left federal employment. Dr. Randolph found that the workplace exposure may have been of sufficient intensity and duration to have aggravated appellant's hearing loss if adequate ear protection had not been used. He found no other significant contributing factors to appellant's hearing loss other than the aging process. Dr. Randolph reviewed findings from his earlier November 5, 2012 report that revealed an audiometric configuration compatible with hearing loss due to noise exposure and the aging process after reviewing the earlier report, he diagnosed sensorineural hearing loss, bilaterally which was unrelated to noise exposure at the employing establishment. Rather, he opined that appellant did not have any hearing loss on audiograms performed on August 24, 1992.

In a February 6, 2013 decision, OWCP denied appellant's claim finding that the medical evidence did not establish that the hearing loss was causally related to workplace noise exposure. It found that Dr. Randolph determined that appellant's hearing loss was not due to noise exposure from his federal employment.

⁴ The Board has held that a program of annual audiometric examinations conducted by an employing establishment may constructively establish actual knowledge of a hearing loss such as to put the immediate supervisor on notice of an on-the-job injury. *Jose Salaz*, 41 ECAB 743 (1990).

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing the essential elements of his or her claim including the fact that the individual is an “employee of the United States” within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA, that the injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) factual statements identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship is generally rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁶

ANALYSIS

It is not disputed that appellant was exposed to noise from 1975 to 1993 in the course of his employment. The Board finds that the weight of medical evidence is insufficient to establish that he has hearing loss causally related to his workplace noise exposure.

In a report dated November 5, 2012, Dr. Randolph diagnosed sensorineural hearing loss bilaterally. He advised that audiometrics performed revealed a bilateral high frequency sensorineural hearing loss. Appellant’s audiogram revealed hearing loss with an audiometric configuration compatible with hearing loss due to past noise exposure but advised that he did not have his industrial audiograms for comparison.

In an addendum report dated January 21, 2013, Dr. Randolph reviewed the employing establishment’s audiograms and additional information regarding the duration and extent of appellant’s workplace exposure to noise. He noted that the earliest audiogram of April 12, 1968

⁵ *Gary J. Watling*, 52 ECAB 357 (2001).

⁶ *Solomon Polen*, 51 ECAB 341 (2000).

revealed totally normal hearing in both ears. Dr. Randolph noted that appellant left federal employment in 1993 and the last audiogram performed on August 24, 1992 revealed essentially normal hearing in both ears. He advised that the hearing loss was not ratable in both ears and no treatment was required based on the audiogram of August 24, 1992. Since 1992 to the audiogram performed on October 24, 2012 appellant's hearing degenerated somewhat due to causes other than his federal industrial employment. Dr. Randolph noted the audiogram performed on October 24, 2012 was not ratable for schedule award purposes. He diagnosed sensorineural hearing loss, bilaterally, which was unrelated to noise exposure at the employing establishment. Dr. Randolph found no other significant contributing factors to appellant's hearing loss other than the aging process. He opined that appellant's current hearing loss was not due to industrial noise exposure as the hearing loss occurred since appellant left federal employment.

The Board finds that the medical evidence does not support that appellant has any hearing loss causally related to workplace noise exposure. Dr. Randolph examined appellant, reviewed audiological records and provided a reasoned opinion as to why the hearing loss was not due to the employment. He found no basis in his most recent report to attribute appellant's hearing loss to his federal employment. There is no other medical evidence supporting appellant's claim. Thus, appellant has not met his burden of proof to establish that his hearing loss is causally related to employment factors.

On appeal, appellant asserts that his hearing loss was causally related to workplace exposure to noise and that Dr. Randolph, in his November 5, 2012 report supports this contention. As noted above, the medical evidence did not establish that appellant's hearing loss is causally related to workplace exposure to noise. At the time of Dr. Randolph's November 5, 2012 report he had not reviewed the industrial audiograms. After reviewing these audiograms, he opined that, since 1993, appellant's hearing loss was not compatible with hearing loss aggravated by noise exposure.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not established that his hearing loss was caused or aggravated by his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the February 6, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 21, 2013
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board